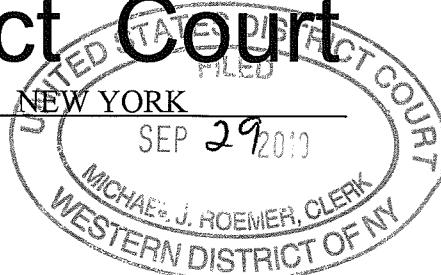


## United States District Court

WESTERN

DISTRICT OF

NEW YORK



UNITED STATES OF AMERICA

v.

JAMES SEILER

## CRIMINAL COMPLAINT

CASE NUMBER: 10-M- 117

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief: the defendant did knowingly, intentionally and unlawfully manufacture and possess with intent to distribute, and distribute, marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(c); knowingly maintain a place for the purpose of manufacturing marijuana, a Schedule I controlled substance in violation of Title 21 United States Code, Section 856(1); and did knowingly and unlawfully possess a firearm and ammunition, namely, a .40 caliber Kel Tec, a loaded 32 round .40 caliber magazine, and 2 boxes of .40 caliber ammunition, in furtherance of a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, a violation of Title 21, United States Code, Section 846, and in violation of Title 18, United States Code, Section 924 (c)(1).

I further state that I am a Special Agent with the Drug Enforcement Administration and that this complaint is based on the following facts:

## SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof:  Yes  No

GREGORY R. YENSAN  
GREGORY R. YENSAN  
Special Agent  
Drug Enforcement Administration

Sworn to before me and subscribed in my presence,

Date: September 29, 2010

  
Judge's signature

City and State: Buffalo, New York

HON. H. KENNETH SCHROEDER, JR.  
U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT**

**Gregory R. Yensan**, Special Agent of the Drug Enforcement Administration (DEA), United States Department of Justice, being duly sworn, states as follows:

- 1) I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516. I am a Special Agent with the Drug Enforcement Administration (DEA), Buffalo Resident Office, currently assigned to Enforcement Group D57, which is composed of Special Agents and local law enforcement officers investigating narcotics trafficking. I have been employed as a Special Agent for the DEA since August 2004, and have participated in numerous investigations concerning the distribution of unlawful controlled substances.
- 2) From 1996 to 2004, I was a sworn State of Virginia Law Enforcement Officer with the Newport News Police Department and the Chesapeake Police Department. During that time, I worked various aspects of narcotics interdiction and, in 2002, I was promoted to Narcotics Detective of the Special Investigative Section. During this time, I participated in numerous narcotics investigations involving the illegal manufacture, possession, sale, and distribution of controlled substances. I have completed extensive training in drug-trafficking investigations and enforcement. I have been involved in over 550 narcotics related investigations that included the writing and execution of approximately 125 narcotics related search warrants. I have been

certified as a narcotics expert in the State of Virginia General District and Circuit Courts, and have provided expert testimony in cocaine, crack cocaine, marijuana, ecstasy, heroin and LSD cases. I have received specialized training from the DEA Academy located in Quantico, Virginia, regarding the investigation and identification of narcotics traffickers. I have conducted physical and electronic surveillance, debriefed confidential sources, participated in several Title III wire intercept investigations, participated in the execution of numerous search and arrest warrants, and analyzed telephone toll records and records relating to narcotics trafficking and money laundering. As a part of my official duties, I investigate criminal violations of the federal narcotics laws, including, but not limited to, Title 21, United States Code, Sections 841(a)(1), 843(b), 846, 848, 853, and 860. I have received special training in the enforcement of laws concerning controlled substances and narcotics trafficking organizations.

3) Based on my training and experience, I am familiar with the ways in which drug dealers conduct their drug-related business, including, but not limited to their (a) methods of distributing narcotics; (b) methods of distributing drug proceeds; (c) use of telephone communication devices and digital display paging devices; (d) use of numerical codes and code words to identify themselves, the nature of the communication and to conduct their drug-related transactions; and (e) common practice of registering for and obtaining these communication devices under false names, or names of relatives and/or friends to avoid financial responsibilities and tracking of criminal activities by law enforcement entities.

4) As a result of reports made to me by Law Enforcement Officers of the Amherst Police Department, I am familiar with the circumstances of the offenses described in this Affidavit. On the basis of this familiarity, I allege that the facts contained in the Affidavit reveal that James

SEILER knowingly and intentionally possessed with Intent to Distribute a controlled substance, identified as marijuana. It should be noted that James SEILER violated Title 21, United States Code, Sections 841(a)(1), Title 21, United States Code Section 856(1) and Title 18, United States Code, Section 924(c)(1), respectively.

5) On September 8, 2010, law enforcement officers of the Amherst Police Department responded to 161 Fairgreen Drive, Apartment: "left," Amherst, New York, for a domestic incident report. The complainant was identified as Jennifer L. Costanzo. Ms. Costanzo reported that her fiancé, James SEILER, made threats to her and then left the residence with their son. Costanzo further reported that SEILER has been abusive towards her for approximately ten years. Ms. Costanzo led officers to an upstairs bedroom where a Mossberg shotgun was located and ultimately removed from the residence. SEILER was then taken into custody and charged with Menacing in the Third Degree. An Order of Protection was issued for James SEILER to stay away from the residence, property, school, or place of employment of Jennifer Costanzo.

6) On September 9, 2010, the Amherst Police Department received a call from Robert Costanzo, reporting the presence of a firearm and narcotics at 161 Fairgreen Drive, Apartment "left", in Amherst, New York. He further stated the items belonged to James SEILER. The responding police officers were met at the door by Jennifer Costanzo, who was alone at the residence. Jennifer Costanzo informed the officers that she was worried because there were "a lot of bad things" in the house that belonged to James SEILER and she did not want to get in trouble for them. Ms. Costanzo gave her consent for the officers to search the entire premises by

signing a search and seizure form in the presence of law enforcement officers. Ms. Costanzo then led officers an unloaded .40 caliber Kel Tec that was located in the top dresser drawer of the

upstairs bedroom. Also located in the same area were two (2) boxes of .40 caliber ammunition, an empty .40 caliber Glock magazine, and a fully loaded thirty-two (32) round .40 caliber magazine. Ms. Costanzo stated that she believed that this was the only gun remaining the residence. Ms. Costanzo then directed officers to the basement where there were a total of sixty-six (66) marijuana plants, along with various marijuana growing equipment, including lights, light hoods, pipes, a pvc tank, a timer, an air pump, and number bags of fertilizer. Based on my training and experience, the items recovered are used to grow marijuana plants in a confined area. All items were taken into the custody and care of the Amherst Police Department.

  
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GREGORY R. YENSON  
Special Agent  
Drug Enforcement Administration

Sworn to before me this  
19th day of September, 2010.

  
\_\_\_\_\_  
HONORABLE H. KENNETH SCHROEDER, JR.  
UNITED STATES MAGISTRATE JUDGE